

VIA ECF

Honorable Lorna G. Schofield
United States District Judge
United States Courthouse
40 Foley Square
New York, New York 10007

Re: *Jane Doe, et al. v. Trump Corp., et al.*
Case No. 1:18-cv-9936 (LGS)

Dear Judge Schofield:

We write on behalf of all parties in the above-referenced action pursuant to the Court's August 4, 2021 Order, which directed the parties to propose "new deadlines for all dates affected by an administrative stay" (Doc. No. 315) and the Court's August 16, 2021 Order, which directed the parties to meet and confer and submit further correspondence concerning pseudonymity and the basis for the parties' joint proposed discovery schedule (Doc. No. 321).

I. Pseudonymity

As a threshold matter, we are pleased to advise that the parties have agreed to lift the Plaintiffs' pseudonymity pursuant to a stipulation and proposed order submitted contemporaneously herewith. The parties are also meeting and conferring regarding any modifications to the protective order that may be necessary to give effect to the lifting of pseudonymity and respectfully propose that they update the Court on their progress next week, on or by September 3, 2021.

Plaintiffs note that, in the parties' meet-and-confer discussions about this issue, Plaintiffs' counsel asked Defendants' counsel whether they could provide any assurance that Defendants would not target or attack Plaintiffs through their social media platforms or otherwise. Defendants' counsel responded that they are mindful of Plaintiffs' ongoing concerns over being identified by name, and advised that they would convey those concerns. Toward that end, the parties respectfully reserve their rights to bring any issues regarding pseudonymity to the Court as may be appropriate in the future.

II. Proposed Discovery Schedule

The Court's August 16 Order directed the parties to submit a supplemental submission addressing the proposed schedule submitted by the parties on August 13, 2021 (Doc. No. 321) and explaining why this case is appropriate for a longer schedule than the Court's default deadlines.

The parties respectfully submit that it will not be possible to complete discovery in this action in accordance with the Court's standard guidelines. As a threshold matter, a longer period for discovery is appropriate in complex cases such as this putative class action involving statutory and common law claims under multiple state laws. Further, while all parties have acted and will continue to act with appropriate diligence, significant document discovery remains to be done.

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It is Defendants' position that the resolution of the pseudonymity issue now allows them to conduct necessary discovery, including utilizing investigators and non-party subpoenas to obtain information about Plaintiffs, as well propounding additional discovery requests to Plaintiffs, including requests as to merits and class certification issues.

It is Plaintiffs' position that (1) Defendants have already conducted significant discovery (*see, e.g.*, Doc. No. 263); and (2) Plaintiffs still require significant document discovery from Defendants (*see* Doc. Nos. 207, 209, 215).¹

The parties anticipate that, once any further discovery demands have been served, and once additional productions have been made, several months will be required to review any discovery responses and document productions, determine whether additional non-party subpoenas are required, serve the subpoenas, review the responses, resolve potential objections, and ultimately depose both parties and non-party witnesses with the relevant documents and information. In addition, it is clear to all parties that discovery from ACN and other non-parties will be required on both merits and class certification issues, and as yet the parties have not obtained such discovery. (*See* Doc. Nos. 232, 264, 265, 276.)

Further, the ongoing COVID-19 pandemic, and the surge in positivity caused by the Delta variant, may continue to impact both access to non-party documents and the scheduling of depositions, which the parties hope and expect to conduct in person. Ultimately, we would prefer to submit a realistic schedule rather than have to return to Your Honor to request more time because circumstances have prevented completion of the necessary discovery.

Based on the foregoing, Defendants proposed and Plaintiffs agreed to a longer period to conduct the necessary fact discovery before expert discovery is launched and we continue to submit that the proposed time period—giving the parties until May 27, 2022 to complete fact discovery—is appropriate under the circumstances.

The parties are available to appear before the Court to address their joint proposed schedule should the Court determine that such a conference would be helpful.

¹ The parties respectfully reserve all rights in connection with such other parties' discovery demands.

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Thank you for your attention to this matter.

Respectfully submitted,

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